P. L. A. 1892-93

G. R. S. IX-5)

Previous references.

1892-93

192

(A. R.)

File No. P. L. A. 1892-93

Serial Nos. 1-8

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-8

Major Part 3 for September 93.

SUBJECT.

Appeal of Badaji Shivaraja of Bargur, Erode Taluk regarding the purchase of land in auction Lots.

Communicated

(3)

Precis

Appeal Suit No 65
of 1892-93.

Appellant:—
Badgi Timmaiya of
Baragur, Malur Taluk.

Respondent:—
Badaga Ramanna of
the same village.

One Nallegonda residing in the Hoskote Taluk is the Patadar of some lands situated in the village of Baragur, Malur Taluk. He is stated to have left these lands, at the time of the partition of property, exclusively to the shares of his younger brothers, the Appellant, the Respondent and one Tirumanna. They have been enjoying them.

A Sum of Rs 9-1-2 due for

Vide Tirumanna's petition of 16/11/91, and the Shekdar's report of 24/7/91, &c.

(4)

for the year Vikrisi (1890-91) having not been paid in due time, a notice of demand was issued to the Pattadar as well as the real occupants. The Respondent refused to sign the notice. The Pattadar wrote a "Shara" on it, to the effect that the land was in the possession and enjoyment of Lis Sirumanna and others, that he had no claim whatever to it, and that he had no objection to its being proceeded against. The arrear not having been paid up, the dry land, S. No. 25 (4 acres 3 guntas in extent, which had been in the joint possession of the three brothers and assessed at Rs 8) was declared forfeited to Govt, and the sale proclamation was issued on 7th September 91.

dated 23. 3. 91

The Sale was held by the Shekdar on the 20th October 1891, as had been notified. The land was bid for by Sirumanna, the Appellant and some others, and it was finally knocked down to the Appellant for Rs 140. The receipts were admitted

(5)

to the General Assistant Commissioner for the confirmation of sale.

The Respondent petitioned the Amildar to recover the arrear from him and cancel the sale, stating that though he and his br the Sirumanna had paid their shares of Kandayam the whole land (including their shares) was sold for the arrear due by the Appellant.

The Pattadar addressed a petition to the Amildar on 13-11-91, praying that as the sale notice was not served upon him, the sale should be cancelled and the arrear be recovered from him.

On 16. 11. 91, Sirumanna presented a petition to the Amildar, stating that he had paid his share of the assessment and obtained receipt from the Shanbog therefor, and praying that, therefore, his share of the

land be released. (6)

N.B. There are two Receipts in the file (it is not known when & before whom they were produced) purporting to have been granted by the Shanbhog Ramappa to Sirumanna for Rs 10-6-3 and for Rs 17-15-7 paid by him for the demand on Hallappa's (or Hallegowda's) Patta lands for Vikradi (1889-90) and Vikruti (1890-91) respectively.

On 11. 11. 91, the Respondent addressed a petition to the Deputy Commr., stating that S. No 25 was equally divided among and enjoyed by him and his brothers Sirumanna and Timmaiya, that he and Sirumanna paid their shares of the assessment and obtained receipts for the same, that Timmaiya, failing to pay the enhanced assessment on his own wet land S. No 42, contrived, with the intention of deceiving them, to get the said common land No 25 sold for his arrears, and purchased

(9)

purchased it himself for Rs 140; and praying that the sale might be cancelled and that Timmayya, against which the Petitioner would show, be proceeded against.

All the above petitions being forwarded to the General Assistant Commr., he called for a report from the Amildar on the points taken in the petitions, and directed him to examine the several petitioners, to ask them whether they were willing to pay the arrears and save the land from being finally sold, and to receive the arrears if paid by Ramanna would tender it, as stated in his petition.

Vide the Asst Comrs order no 502 of 23/11/91.

Meanwhile, Timmayya presented several petitions to the Taluk and District authorities, complaining of delay in the confirmation of the sale

sale, and stating that none of his brothers could, have any objection to the sale, as the Pattadar made a "Share" on the notice of demand renouncing his rights to the land, as Sirumanna bid for the land in the auction and as Ramanna refused to pay the arrear though asked several times.

On 22. 1. 92, Ramanna appeared before the Amildar and deposed that Sirumanna Timmaiya and himself had equal shares in the land sold, that only Rs. 1-8-0 out of his share of a Kandayam was due, and the remainder of the arrear was due by the other two, that he tendered his arrear on the date of sale, but the Shanbhog and the Shekdar did not receive it, that the land was not private but was in their joint possession, that Ballappa had no share in it, and that his (Ramanna's) prayer

prayer was that the arrears due by the three persons be recovered and the sale be cancelled.

Sirumanna deposed, on the same date, that, as stated by Ramanna, all the three were Rakidars to the land, that he paid Kandayan due by him, that the arrear in question was due by Ramanna & Timmaiya, and that he would not pay it.

Timmaiya deposed that though all the three were Kiesedars, the arrear due belonged to Ramanna's share only, and as he failed to pay it the land was attached and sold, that he (Timmaiya) purchased it for a large amount, that it was unjust to cancel the sale regularly held, merely that the defendant offered to pay the arrear which he had failed to pay before the sale; and he prayed that

the

the sale might be confirmed and the Patta of the land be transferred to his name

On the 6th February 1892, the Amrita Bazar reported as follows:—

"..... The three — shareholders having failed owing to disputes among them to pay the arrear, only one Survey number sufficient for the realization of the arrear was sold. As the brothers bid against each other, each intending to deceive the others and to have the land for himself, much more than the real value of the land was realized.

× × × × ×

" Each of the 3 Kinnedars states that he owes nothing and that the arrear is due by the others. The land is not divided and separately enjoyed by them. It cannot be ascertained which of them have, and which have not, made payments towards the assessment of this land. Besides, each of the Kinnedars have many lands of this own.

own. It appears that their payments have been credited in their books the assessment of their own Patta lands. Had the land been mentioned in their Pattas, the accounts and records might have been easily referred to. These three persons are liable to pay this arrear, jointly and severally. Had they paid it, the Chandhoy would not have shown, in the records, an arrear as due on this land. They were at liberty to produce vouchers for the payments if they had made any. They have failed to pay the arrear and thus save the land from being finally sold, though they were told to do so, over & over much"

Thereupon the Government Assistant

(12)

Assistant Commissioner confirmed the sale on the 9th February 1892. (Vide his order No 2195-).

Under the Amildar's order No 639, dated 5. 8. 92, the Appellant, who had already paid the purchase money, was put in possession of the land by the Sheristar on the 20th March 1892.

In August 92, Ramanna preferred an appeal to the Deputy Commissioner against the Assistant Commissioner's order confirming the sale.

On the 18th October 1892, the Deputy Commissioner cancelled the sale, on the ground that it was held on the 20th October 1891, which being a Sunday was a general holiday, and that it was, therefore, opposed to Section 173 of the Land Revenue Code, and ordered a resale to be held after

a

(18)

contained in the late Chief Commr's Circular order No. 999, General, 5, dated the 1st May 1879, and that the orders conveyed in para: of the Govt Proceedings No 1925-32 / G.480-92, dated 5th August 92 would also tend to legalize the action of the General Assistant Commissioner.

S.V. 20/6.

(General Serial No. 32.)

1892.

No. 1289

Name of Petitioner. Kadiga Ramanna
& ors. & Karachuppa

Village.

Taluk.

District. Bangalore City

Date of Arzi.

Date of Receipt. 1—12—92

Date of Disposal.

No. of Enclosures. one

ABSTRACT.

Appeal against the decision
dated 22.9.92 & revenue
cancelling the sale held on a land in the Ramagondanahalli village
Malur Talq.

S.N.P.
27/12/92

Myore Govt. Central Press Bangalore—7-9-92,—1000.

as a holiday by the above office and Treasury.

III. The petitioner had notice of sale and was ever given an opportunity to pay the Kandayam to avoid sale and he failed to do so.

IV The Deputy Commissioner has not considered the objections urged by the Counter petitioner to set aside the sale.

V For the said and other reasons which may be urged at the hearing of the appeal the Counter-petitioner most respectfully prays that the order of the Deputy Commissioner under appeal may be dismissed.

S. Saravanna Gounder

Adv for Appellant

(21)

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1283
dated 30 Dec 92 received at the
Dewan's Office from Sadoya Dhanvanthri
by Advocate C. Varadarajayya
Bangalore City, appealing against
the Deputy Commr's order, cancelling
a revenue sale held on a
Sunday at Bagur village Hobli
is forwarded, together with its one
enclosure, to the Deputy Commr
Kolar for his report, for submission
of proceedings, with a report on
the facts of the case and in the
form of notification in the sale
for which should be returned

By Order,

Chief Secretary

BANGALORE,
27 Jan 1893.

M. G. C. P. Bangalore.—21-11-92—3,000.

(General Serial No. 30.)

0495-
Ah. 93

1893

13417

From The deputy Commissioner
Kolar district

(10)

The Chief Secretary to the Dewan of Mysore.

Dated 15th March 1893

Despatched 16th

Received

Enclosures No. file

General No. 2792

No. 670

In reply to

SUBJECT.

Reporting on the petition
from Badagi Shimiah &
Baraguru village Malu
Taluk - - - - - - - -

Perusal
MRR
17/3

Post 4. from whom
to call further. asked
Com^r to report without
~~any~~ unnecessary delay

References (to be entered only in the Dewan's Office).

Confirmed the sale -

Sale on 4th Aug. 1893
abs on 42 154 26/8/93

~~Sale to be confirmed~~

~~Sale confirmed by~~ 4/9/93

(23)

L.R. 127-92-94

Read for Recs
14/6.

(General Serial No. 30.)

189

(25) (26)

(11)

From The Chief Secretary to the Dewan of Mysore.

To The Deputy Commissioner Kolar District

Dated 29/3.

Despatched 31/3/93

Received

Enclosures No. Nil

General No. 1617
Pol No. 1244

In letter No. 2792/670 dated 15th instant reporting on the petition of Bailaji Timmaji of Baragur in the Malur Taluk.

With reference to the above he requests to state that the Government have not received the Copies and Translations of the Depositions recorded by the Police Officers, in the case under Sec. 185, Land Revenue Code.

By Order

31/3/93

Asst Secy

Chief Secretary

(General Serial No. 30.)

(27)

1892. 21 APR 92 12029.

From

Chief Secretary

To (12)

The Chief Secretary to the Dewan of Mysore.

Dated 15 April

Despatched

Received 20

L.R. 127-92-b

Enclosures No.

General No. 3133

No. 743

In reply to

SUBJECT.

Requesting the Arrears Statement which the Superintendent Circle has failed to furnish, as an instance of Revenue Sale in the Kadur Taluk

Peter Dor
Asst
21/4

References (to be entered only in the Dewan's Office).

Re the issue of [illegible]
[illegible] 93.

Copy of Petition & Report thereon.
Q 15
[illegible] 2nd 6/9/93

No 3133
743.

Deputy Commissioner's Office
Kolar District.
Dated 15 April 1893.

To (28) 20 (12)
The Chief Secretary to the
Government of Mysore.

Sir,

With reference to your docket No: 1612-
Rev 1244
dated the 29th ultimo enquiring under what
authority the General Assistant Commissioner
Mr. Corfield Mookiah exercised the power
of conferring a perenne sale in the Kolar Taluk
under section 83, Land Revenue Code, I have
the honor to state that I had delegated to the Assis-
tant Commissioner the authority of disposing of
sale cases arising in the Taluk and in the disposal
of such cases he exercised the powers conferred on
the Deputy Commissioner by the aforesaid section
of the Code.

2. This delegation of authority was in con-
formity with the rules contained in the late Chief
Commissioner's Circular Order No: 999 General S
dated the 8th May 1879 which would seem to be
in force within the meaning of section 2 of the Land
Revenue Code as the same has not been decided

to the schedule of enactments thereby repealed and its provisions are consistent with those of clause (29) section 8 of the said Act which says that

"In such Assistant Commissioner as may not be placed in charge of Taluks, the Deputy Commissioner shall, under the general or special orders of the Government, assign such particular duties and powers as he may from time to time deem"

2. The orders contained in para 1 of the Government Proceedings No. RD 25-32 dated the 5th August 92 Rejo 480-92 which also tend to regularize the action of the General Assistant Commissioner

I have the honour to be,

Sir,

Your most Obedient Servant,

Deputy Commissioner

Tiptur

(32)

competent to admit appeals after the time allowed by Law for good and sufficient reasons, and that no appeal lies against their order. ~~admit an appeal~~. Vide — Section 212 of the Land Revenue Code.

4. The appeal will therefore be dismissed.

23/9/95

By Order

Chief Secretary.

Redraft-

5792 / Ref. 44-93 — 25-9-93 / 28

Copy forwarded to the Deputy Commissioner, Kolaba District, with the Memoranda proceedings, received with his Nos 2792/670 dated 8th March, 95.

By Order

Chief Secretary.

S.N.
16/9

(3)

1879.

GOVERNMENT OF MYSORE.

GENERAL.

CIRCULAR.

THE COMMRS. OF DIVISIONS.
" DEPUTY COMMRS. OF DISTRICTS.
" DEPUTY ACCOUNTANT GENERAL.
" JUDICIAL COMMISSIONER.
" SURVEY AND SETTLEMENT COMMR.
" SUPT., REVENUE SURVEY.
" SUPT., INAM SETTLEMENTS.

Dated May 1st.

Despatched

Received.

No. 999.
G. 15.

Revising the existing rules with regard to Sub-Divisions of Districts and the duties of Assistant Commissioners generally, and calling for the opinions of the Commissioners on the subject of extending the powers of Amildars.

Mysore Government Press, Bangalore.—2-5-79.—100.

(2)

Proceedings of the Chief Commissioner of Mysore, General Department, 1st May 1879.

No. 999—Genl. 15, dated 1st May 1879.

Circular Order.—The Chief Commissioner has had under his consideration, in connection with the revision of the Mysore Commission which is now being effected, the existing rules with regard to sub-divisions of Districts and the duties of Assistant Commissioners generally; and with the view of providing for the better distribution of Revenue work and the more efficient performance of District work generally, Mr. Gordon is pleased to order in supersession of the rules in force that—

(1). The District Head-Quarters shall be the Head-Quarters of every Assistant Commissioner employed in the District.

(2). The Deputy Commissioner of a District may apportion the Revenue work of the District between himself and his Assistants by taluks, retaining the original current work of such taluks of his District as may seem to him convenient and ordering his General Assistants to take up the work of such taluk or taluks as he may apportion to them.

(3). An Assistant Commissioner shall, subject to the orders and control of the Deputy Commissioner, exercise the powers of a Deputy Commissioner in Revenue matters.

(4). The Deputy Commissioner will be held responsible for the condition of his District and the orders given therein whether by himself or by his Assistant, and it is to be understood that while the Deputy Commissioner must supervise and control the exercise by his Assistant of authority delegated to him, he is at liberty, on the other hand, to delegate as much or as little of his authority to his Assistant as he may consider expedient.

2. These orders do not affect divisions of Districts made for Magisterial purposes, nor do they interfere with any investiture of powers of a Magistrate of a division of a District under the Code of Criminal Procedure.

3. In connection with this subject, Mr. Gordon has had under consideration the present powers and status of Amildars. There is, Mr. Gordon believes, an unnecessary amount of vernacular work of a trivial character thrown upon the District Officer by reason of the limited powers given to Amildars in Revenue and General matters. This results in the time of the Deputy Commissioner being so taken up with trifling questions of detail, that he has no time for matters of far graver import. The Commissioner of Ashtagram and Officiating Commissioners of Nundydroog and Nagar are therefore directed to report in what particulars they consider the power of Amildars may beneficially be extended and reference to District Officers rendered unnecessary. These reports should reach the Secretary by the end of May.

W. J. CUNINGHAM,
Offg. Secretary.

To—The Commissioners of Divisions.
" Deputy Commissioners of Districts. } For information and guidance.
" Deputy Accountant General.
" Judicial Commissioner.
" Survey and Settlement Commissioner. } For information.
" Superintendent of Revenue Survey.
" Superintendent of Inam Settlements.

a fresh proclamation.

The present appeal to Govt. is against the above order, the grounds being,—

(1) that the Deputy Commr. erred in setting aside the sale which took place more than 11 months ago and which was acquired in by the petitioner (Respondent) on account of slight irregularity,

(2) that Sunday is not recognized as a holiday by the Taluk Office and Treasury,

(3) that the petitioner had notice of sale and was given an opportunity to pay the Kandayam & to avoid sale, but he failed to do so, and that

(4) the Deputy Commr. has not considered the objections

Sale confirmed 9th Feby 1892

Appeal admitted 1892

Sale cancelled 18th Octr 1892

objections urged by the counter petitioner (appellant) to set aside the sale.

The Deputy Commissioner states in his report to Govt. that the resale of the land ordered by him did not take place, as in the meantime the Respondent paid up the balance due on the land to Government.

No $\frac{2792}{670}$, dated 15th Mar

In reply to this office docket No $\frac{16127}{1244}$ enquiring under what authority the General Assistant Commr. Mr. Kooppaswami Modiliar exercised the power of confirming the sale under Section 185 of the Land Revenue Code, the deputy Commr. reports that he had delegated the to the Assistant Commr. the authority of disposing of the sale cases arising in the Malur Taluk, that this delegation of authority was in conformity with the rules

Vide the deputy Comrs letter No $\frac{3133}{743}$, of 15th April 9

(16)

(15)

M No 65 of 1892-93

Appl
Badage Immiah
of Bargur
Malur Taluq
represented by
his Advocate
S. Narasimhayya

Respt
1 Badage Ramana
2 Timmiah
represented by
his Agriculturist
1st grade Headman.

Applts & Respts are brothers who quarrelled amongst themselves & fell into arrear — the land was attached & sold by Govt in Oct 1891, & the applts purchased it for Rs 140. The sale was confirmed on 7th July 1892. In August 1892, applts appealed to the Dy Comr who cancelled the sale in October 1892 on the ground that the sale was held on a general holiday i-e Sunday contrary to Sec 173 of the Land Rev Code. — The appeal is against this order. —

Applts contention is that the sale on a Sunday is not a material irregularity to justify the cancellation the sale, & that the Dy Comr was wrong in having admitted the appeal 5 months after sale was confirmed. —

As to the regards the 1st contention

(17)

~~Now to consider the sales on a general Holiday as a material irregularity, there appears to~~ observe that the object of the prohibition of sales on general Holidays is to prevent the conduct of sales on days on which people do not attend to business, & consequently are not likely to attend the sales.

Prevent ~~the~~ deliberation on the value the land sold for want of bidders who do not generally attend to business on Holidays & thus the conduct of sales on those days is a material irregularity & the DG Court was right in cancelling the sale.

As regards the 2d contention, the Court note that DG Courts are competent to admit appeals after the time allowed by Law for sufficient & good reasons & that no appeal lies against their order ~~admitting~~ to admit an appeal. Vide Sec 212 of the L.R Code —

The appeal was therefore dismissed.

14/9/93

It is informed that the appeal has been dismissed - the DG Court properly cancelled the sale

Branch
Mysore 1/12/92

1
(19)

(2)

1289 Q
1-12-92

Two Rupees stamp
In the Court of the Deputy Commissioner Mysore 1/12/92
in Council.

A.S. No 65
92-93.

Revenue Appeal No. of 18

Appellant.	Respondent.
Badiga Thimiah	Badiga Ramanna
(Counter-petitioner)	(Petitioner)

The Counter-petitioner most respectfully begs to appeal against the order of the Deputy Commissioner of Kolar dated 18th October 1892 on the following grounds:-

I. The Deputy Commissioner erred in setting aside the sale which took place more than 11 months ago. and which was acquired in by the petitioner on account of slight irregularity

II. That Sunday is not recognized as

Pet
975

70-00528
11/2/93

(22)

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

(9)

The accompanying Petition No. 1674

dated 1—1—93 received at the

Dewan's Office from Badagi Hanmanta of Dealer, praying for early orders on his appeal in re ~~resale~~ certain land purchased by him in auction in Baragur village Malur Taluk

L.R. 27-92-3

is forwarded, ~~together with~~ its

~~enclosures~~, to the Deputy Commr Kolar Dist in continuation of this office No. 8908 of 25th January/93

By Order,

Draft

Mrk 9/2

for Chief Secretary.

BANGALORE, 9 Feby 1893.

Ker

10

M. G. C. P. Bangalore.—21-11-92—3,000.

From the Dasne No 2722 745
670

Deputy Commissioner's Office

Kolar District

No. 2792 on file
670

Dated 15 March 1893.
16

(2H)

To

The Chief Secretary to the Dewan
of Mysore.

Sir,

With reference to your official Memoranda as per margin forwarding for report 2 petitions from Badapi Thimmiah of Baragur village, Lakkur Hobli, Malur Taluk, appealing against this office order No: 292 of the 18th October 1892 cancelling a revenue sale held on a Sunday in the said village, I have the honor to submit for information and obliging return when no longer required the accompanying file of records ending with the Malur Amildar's Yerzi No: 683 dated 15th February 1893 on the subject.

2. It will be observed from the same that Survey No: 25 (dry) measuring 4 acres and 5 guntas with an assessment of Rupees 8 situated in the aforementioned village of Baragur was sold

× Memoranda returned with Klein's enclosure

by public auction on the 25th October 1891 in satisfaction of the arrears of revenue amounting to Rupees 9-1-2 due thereon to Government for the year Vikruti (1890-91) and the appellant one of the shareholders offered Rupees 140 therefor which was the highest bid received at the auction. The sale was confirmed by Mr. A. Coopoosamy Modaliar, General Assistant Commissioner in his Canarese order No: 2195 dated the 9th February 1892.

3. Badagi Ramanna (Respondent) also a Shareholder in the land having appealed to this office against the Geural Assistant Commissioner's Order Confirming the Sale, the records were sent for and reviewed when it was found that the Sale was held on a Sunday contrary to the prohibition contained in Section 173 of the Mysore Land Revenue Code. The Sale had therefore to be cancelled as illegal and the land ordered to be resold. No resale however took place as in the meantime the said Badagi Ramanna paid up the balance due on the land to Government.

I have the honor to be,

Sir,

Your most Obedient Servant

S. Ramachandra

Deputy Commissioner

Before the Government of *His Highness* the Maharaja of Mysore.

(30) Appeal No. 65 of 1892-93 (15)

Appellant. Vs. Respondents

Badige Timmiah of Bargur, Hosur Taluk, represented by Mr Advocate S. Narasimhiengar

1 Badige Ramanna
2 Timmanna
represented by Mr Gopala Row 1st grade Pleader

L.R. 124-92-9

Decision.

Appellants and Respondents are brothers who quarrelled amongst themselves and fell into arrears. The land was attached and sold by Government in October 1891, and the Appellant purchased it for Rs 140. The sale was confirmed by the General Assistant Commissioner in February 1892. In August 1892, ~~Appellant~~ appealed to the Deputy Commissioner who cancelled the sale in October 1892, on the ground that the sale was held on a general holiday, i.e. Sunday, contrary to Section 173 of the

Land Revenue Code. The appeal is against this order. (31)

2. Appellants' contention is that the sale on a Sunday is not a material irregularity to justify the cancellation of the sale, and that the Deputy Commissioner was wrong in having admitted the appeal 5 months after the sale was confirmed.

3. As regards the 1st contention, Government observe that as the object of the prohibition of sales on General Holidays is to prevent ~~deterioration in the value of the land sold~~ loss such may accrue for want of bidders who do not generally attend to business on Holidays, ~~and therefore~~ the conduct of sales on those days is a material irregularity, and the Deputy Commissioner was right in cancelling the sale. As regards the second contention, the Government note that Deputy Commissioners are competent

No. 65

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,

(33)

23 - 9
28 189

Endorsement granted to Badige Timmaiya (of Bargur

Gnalur Taluk

in reply to his Petition Registered No. 1289 dated 1st December/92
R.S. 65
appealing against the order of the Deputy Commr
of Kolar, cancelling the sale of ~~a certain~~ land No 25 in
the Bargur village.

Petitioner is informed that his appeal ~~is~~ has been dismissed.
The Deputy Commissioner properly cancelled the sale.

The enclosure is herewith returned.

Ltr
23/1289
L.L. 124-92-8

Draft
(Council order)

"By Order"

25 Sep

Chief Secretary.

Mysore Govt. Central Press, Bangalore.—9-2-93—2000.